

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF EDUCATION
FILE ID NO.: 2011-139
DATE OF REPORT: AUGUST 2, 2012

The Office of the Ohio Inspector General..... The State Watchdog

“Safeguarding integrity in state government”

The Ohio Office of the Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General’s Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL
RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2011-139

SUBJECT NAME: Stan Heffner

POSITION: State Superintendent of Public Instruction

AGENCY: Ohio Department of Education (ODE)

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Conflict of Interest

INITIATED: July 25, 2011

DATE OF REPORT: August 2, 2012

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On July 18, 2011, Representative Debbie Phillips of the Ohio House of Representatives filed a complaint with the Office of the Ohio Inspector General, alleging that Ohio Department of Education Interim Superintendent for Public Instruction Stan Heffner had violated the conflict of interest provisions of Ohio's ethics laws. Representative Phillips alleged Heffner gave testimony before the Ohio Senate Finance Committee in support of legislation designed to increase the amount of competency testing of teachers in Ohio's educational system, which would potentially result in an increase in revenue for the nation's largest private, non-profit educational testing and research company,¹ Educational Testing Service (ETS). Representative Phillips believed this testimony was delivered at a time when Educational Testing Service had entered into a contract to hire Heffner as an employee, and that Heffner's actions presented a conflict of interest.

Representative Phillips' complaint stated several additional areas of concern with actions taken by Heffner in his official capacity as Ohio Department of Education interim superintendent and a belief that such actions might impact Heffner's future employment with ETS, possibly causing additional conflicts of interest.

BACKGROUND

Ohio Department of Education

Ohio Revised Code (ORC) §3301.13 establishes the Ohio Department of Education (ODE) and sets forth the duties and relationships among the state board of education, the superintendent of public instruction, and staff necessary to perform the duties and exercise the required operations of the department. The state board and the department have the power to make rules and regulations and to prescribe minimum standards for education in the state.

According to ORC § 3301.11, the superintendent of public instruction is the executive and administrative officer of the state board of education and is responsible for the administration of all educational matters and functions placed under its management and control. ORC § 3301.12,

¹ Source: http://www.ets.org/Media/Education_Topics/pdf/candbrief2007.pdf

establishes additional duties of the superintendent of public instruction, which include the following:

- Provide technical and professional assistance and advice to all school districts in all aspects of education, including finance, buildings and equipment, administration, organization of school districts, curriculum and instruction, transportation of pupils, personnel problems, and the interpretation of school laws and state regulations;
- Prescribe and require the preparation and filing of financial and other reports from school districts, officers, and employees as are necessary or proper;
- Conduct studies and research projects as are necessary or desirable for the improvement of public school education in Ohio;
- Prepare and submit to the state board of education an annual report of the activities of the department of education and the status, problems, and needs of education in the state of Ohio;
- Supervise all agencies over which the board exercises administrative control, including schools for education of persons with disabilities.

Race to the Top & Common Core Standards Initiative

The American Recovery and Reinvestment Act (ARRA) provided \$4.35 billion for Race to the Top, a competitive grant program designed to encourage and reward states that are creating the conditions for education innovation and reform; achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring student preparation for success in college and careers.

Ohio's Race to the Top is designed to promote the rate of student graduation and to prepare them for college, work, and life. Ohio received approximately \$400 million of ARRA money to help implement this program.

ODE joined with other states participating in the Common Core Standards Initiative to upgrade the academic content standards in reading, writing, and math. To pursue these improved standards, a system of assessment testing would be required to evaluate the results. ODE

became involved itself in Partnership for Assessment of Readiness for College and Careers (PARCC) and the SMARTER Balanced Assessment Consortium (SBAC) to assist in providing these assessment tests.

INVESTIGATIVE SUMMARY

On July 25, 2011, the Office of the Ohio Inspector General opened an investigation into the allegation made by Representative Phillips, beginning with a review of House Bill 153 of the 129th Ohio General Assembly (HB 153) and Heffner's written testimony before the Senate Finance Committee on May 11, 2011. At that time, Heffner held the position of interim superintendent of public instruction for the Ohio Department of Education. In testifying, Heffner provided an historical account of the Common Core Standards Initiative,² and reviewed Ohio's 2009 decision to raise the academic content standards in reading, writing, and math. Nationwide, Ohio joined 44 other states and the District of Columbia, in adopting this initiative. Heffner also stated that the purpose of joining with other states in this effort was to improve the standards of education more rigorously, focus on consistency of Ohio's standards, and establish a clearer description of what high school graduates must know in order to successfully transition to post-secondary education, without remedial intervention, in order for graduates to secure future jobs.

Heffner testified that, following the adoption of the Common Core Standards Initiative, Ohio joined two national consortiums that had been working to develop accompanying assessments. The next generation of assessments, scheduled to come online in school year 2014-15 and pioneered by the consortiums, will take advantage of technology to include advanced measures of student learning. Through these consortiums, Heffner continued, Ohio can capitalize on the efficiency of cross-state cost sharing for test production and administration.

House Bill 153 was broad-based legislation which included many subjects in addition to education. Testifying in support of the educational components of the bill, Heffner stated that although HB 153 was geared toward attracting, rewarding, and promoting excellence in teaching, it would also require the retesting of teachers working in the schools at the "bottom 10 percent"

² Joint initiative between the National Governors Association Center for Best Practices and the Council of Chief State School Officers. Also see: <http://www.corestandards.org/>

of performance index scores. In an analysis of HB 153 provided by the Ohio Legislative Services Commission, in the section titled Retesting Teachers, page 190, there is language requiring each teacher of a core subject area in a building that is ranked in the lowest 10 percent of all public school buildings according to performance index score, to retake all exams needed for licensure in the teacher's subject area and grade level.

The implementation of educator testing is in response to standards adopted by the Ohio Board of Education, which uses examinations for initial licensure provided by Educational Testing Service (ETS). In Ohio, successfully passing licensure examinations is part of the credentialing process.

Educational Testing Service

ETS develops, administers, and scores assessment tests for more than 180 countries, at over 9,000 locations worldwide. The company employs in excess of 2,800 employees throughout the United States and internationally. The stated mission of ETS is to advance the quality and equity in education by providing fair and valid assessments, research, and related services.

The Ohio Department of Education requires only one Principles of Learning and Teaching (PLT)³ test be successfully completed in an educator's career. However, new content or licensure areas require additional Praxis II⁴ subject tests to establish minimum competency in particular subject areas. Praxis II tests consist of PLT and Subject Assessments (i.e., content tests). The tests measure professional, pedagogical, and subject-specific knowledge and skills.

On May 17, 2012, the Ohio Ethics Commission interviewed John Oswald, vice president of K-12 Assessment Solutions for ETS. A synopsis of the interview indicated Oswald stated that ETS had a business interest in Ohio and he was aware that Ohio used the ETS Praxis Testing Series. Oswald explained he was not certain if ETS contracted with ODE to administer the test or if ODE mandated the test be used in Ohio. He further stated that ETS had submitted requests for

³ One of three parts of the Praxis II series of tests produced by Educational Testing Services. Test measures general pedagogical knowledge at one of four grade level ranges: Early Childhood, K–6, 5–9 and 7–12, and consists of multiple-choice questions and short constructed-response prompts based on information provided in case studies. Also see: <http://www.ets.org/praxis/about/praxisii/content>

⁴ Praxis II is trade name for a series of tests owned by Educational Testing Services and measures subject-specific content knowledge, as well as general and subject-specific teaching skills. Also see: <http://www.ets.org/praxis>

proposals to ODE, but there were no current proposals before ODE at the time of this interview or during the time period Heffner was being recruited.

The investigation revealed that on May 20, 2011, ETS filed notification with the Ohio Joint Legislative Ethics Committee⁵ that “active advocacy occurred” during the reporting period of January 1, 2011, to April 2011, on HB 153 State Program Budget and Operations.

On June 27, 2011, Heffner filed an “Initial Post Employment Disclosure Statement” with the Joint Legislative Ethics Committee indicating his “New Employer” would be ETS and listing his date of employment as August 1, 2011. [\(Exhibit 1\)](#)

The investigation further revealed that at the time of Heffner’s testimony before the Senate Finance Committee, ETS and Heffner had entered into an employment agreement on April 25, 2011. [\(Exhibit 2\)](#) Records provided by ETS indicate that in November 2010, as a participant in a candidate search conducted by J. Robert Scott Executive Search (JRS) on behalf of ETS, Heffner flew to ETS offices in Newark, New Jersey, and met with JRS and ETS representatives. ETS records further reveal that the two-day trip, which included air travel, car service, hotel and meals, was paid by ETS. [\(Exhibit 3\)](#)

A review of email records show continuous contact between ETS and Heffner between November 2010 and May 11, 2011, when numerous emails were exchanged between Heffner and ETS executives. In these emails, Heffner:

1. Expressed his interest in employment with ETS; [\(Exhibit 4\)](#)
2. Informed ETS of ODE’s expressed interest in Heffner serving as interim superintendent; [\(Exhibit 5\)](#)
3. Scheduled meeting dates with ETS officials while attending out-of-state conferences while acting on behalf of ODE in the official capacity as interim superintendent of public education; [\(Exhibit 6\)](#)
4. Signed an ETS employment offer; [\(Exhibit 2\)](#) and
5. Scheduled trips to meet with ETS officials. [\(Exhibit 7\)](#)

⁵The Joint Legislative Ethics Committee serves as the ethics advisory committee for Ohio’s legislative branch of government. The bipartisan committee carries out its mission through the Office of the Legislative Inspector General who is responsible ensuring a transparent and lawful lobbying process.

During this same time period, ETS representatives paid for and met with Heffner for a business meal in the amount of \$212.74. ETS records document the meal as a “business expense” with Stan Heffner, Associate Superintendent and Danny Thompson, ODE Director, Curriculum and Assessment. [\(Exhibit 8\)](#)

In an interview conducted on April 25, 2012, by the Ohio Ethics Commission and the Office of the Ohio Inspector General, Heffner admitted being pursued for employment by ETS, through J. Robert Scott Executive Search beginning in early fall 2010. Heffner indicated that ETS was selected by ODE 20 years previously to provide the testing for people who complete their licensing training, and he presumed that the retesting of teachers (requirement of HB 153) “caught the eye of ETS.” Heffner stated, that with the economic stimulus in the program and with four billion dollars set aside for education, a large portion of the money went to Race to the Top (RttT). Heffner explained that if RttT was going to include common standards, it needed to include common assessments. These assessments would be led by consortiums. Heffner stated that money was “carved out” to give to consortiums to develop the tests. Ultimately, two consortiums emerged from a series of smaller groups trying to get started. The two that emerged were Partnership for Assessment of Readiness for College and Careers (PARCC), and the SMARTER Balanced Assessment Consortium (SBAC). Heffner stated that, as associate superintendent, he was not happy with either consortium but wanted to “hedge” ODE’s position and stay involved in both in a non-committal role. At some point, Heffner stated, ODE would have to choose one or the other, because the department could not participate in both. Heffner stated ETS was “... looking to do business with both ...” and “ETS was interested in the contract so they were going to prepare business plans to go after both.”

At the time of this report, the PARCC consortium, of which Ohio is now a governing state, awarded ETS a contract for test item development; and meeting, planning and coordinating services work.

CONCLUSION TO THE INITIAL ALLEGATION

At the time of his testimony before the Ohio Senate Finance Committee, Heffner had already interviewed and secured a position at Educational Testing Service (ETS). Heffner negotiated the conditions of his employment with ETS, signed an offer, and began the process of transitioning from Ohio to San Antonio, Texas. He had met with ETS officials out of state and allowed them to pay for his travel; he took time from attending an out-of-state conference on behalf of ODE to meet with ETS officials. Heffner's testimony supported legislation which would result in an increase of testing for Ohio's school teachers. Based on the prior relationship between ODE and ETS, it was inappropriate for Heffner to give testimony in support of this bill given the strong likelihood that ETS could stand to profit.

Ohio Revised Code Section 121.41 defines at division (G):

“Wrongful act or omission” means an act or omission, committed in the course of office holding or employment, that is not in accordance with the requirements of law or such standards of proper governmental conduct as are commonly accepted in the community and thereby subverts, or tends to subvert, the process of government.

By providing testimony to the legislature as the state's principal employee for leadership in education, in support of a bill that could and ultimately did benefit a corporation with which he had entered into an agreement of employment, Heffner failed to meet the standards of proper governmental conduct as are commonly accepted in the community and subverts the process of government.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances

ADDITIONAL ISSUES DISCOVERED DURING THE INVESTIGATION

While investigating the initial allegations, the Office of the Ohio Inspector General found during the course of negotiating the employment agreement between Heffner and ETS, Heffner advised associates at ETS to use both his state-issued cell phone and his state email account as the preferred method of contact to conduct non-state business arrangements. For example, on March 29, 2011, Heffner sent an email to Oswald and wrote “It is Ok to use my office email (since that

is also accessible to me via Blackberry).” Heffner also wrote, “Or he can call my cell” and proceeded to give Oswald his state-issued cell phone number. On another occasion, Heffner apologized to Oswald for not responding to an email Oswald sent to Heffner’s private email account. Heffner instructed Oswald that in the future, he should send email to Heffner using his state email address or contact him directly on his state-issued cell phone. [\(Exhibit 9\)](#)

Ohio Ethics Commission Advisor Opinion 96-004:

Using Public Time, Resources, or Facilities:

“A public official’s or employee’s duty is to the exercise of the public trust by performing the tasks assigned to him by the public agency with which he serves. Advisory Op. No. 89-010. A public agency provides resources to its officials and employees for the performance of these tasks and not for the official’s or employee’s personal financial gain or benefit. Advisory Op. No. 89-004. Therefore, R.C. 102.03(D) prohibits a public official or employee from using public time, facilities, personnel, or resources in operating a private business or while engaging in private outside employment . . . Advisory Op. No. 84-013.”

ODE Human Resources Policies and Procedures Manual VII Use of State Equipment:

While a limited amount of personal use of state equipment may occasionally occur, the use of state equipment for personal use or for any activity undertaken for profit or gain is prohibited. Violations of these policies may result in disciplinary action up to and including termination.

(A) Telephones: ODE telephones, both wired and cell, are provided to facilitate conduct of the agency’s business. Personal calls should be made, whenever possible, during lunch or authorized breaks. Personal long distance calls are prohibited unless the employee utilizes a personal calling card to place the call.

Upon the conclusion of the recruiting process, Heffner signed and faxed a letter of employment to ETS on April 15, 2011. At this time, Heffner began the process of transitioning from ODE in Ohio to ETS in San Antonio, Texas. In an email sent to Oswald, Heffner informed him that his ODE executive secretary would be the contact point for ETS in working out the logistics of his employment transition. [\(Exhibit 10\)](#) Subsequently, numerous contacts were made between ETS

and Heffner's ODE executive secretary to work through both the logistics of the employment move, as well as Heffner's residential relocation. [\(Exhibit 11\)](#)

On February 16 and 24, 2012, Heffner's former executive secretary consented to be interviewed by the Office of the Ohio Inspector General. She stated that Heffner had been her supervisor at ODE from 2004 to approximately May 2011, at which time she changed supervisors and no longer directly reported to Heffner. However, during the time she was reporting to Heffner, she managed his schedule, prepared him for meetings, handled calls from stake-holders, attended board meetings, and gathered information from ODE staff for presentation to the state board of education.

Heffner's former executive secretary also stated her established work hours were 7:30 a.m. to 4:15 p.m., and her lunch would range from 30 to 45 minutes, assuming she took a lunch break. She stated that Heffner had instructed her to arrange a personal business flight to South Dakota, and after arrival, ground transportation so Heffner could interview for the position of superintendent of public information for the University of South Dakota (USD). When explaining that the flight was scheduled to depart Columbus on March 31, 2011, and return on April 2, 2011, she stated that these arrangements were made during her established working hours while employed by the state, and by utilizing state office equipment. [\(Exhibit 12\)](#) Prior to the day of departure for the trip, Heffner instructed her to cancel the trip because of illness. In addition, Heffner's former executive secretary also provided documentation of email instructions addressed to her by Heffner for preparing an envelope to send an employment application to USD. [\(Exhibit 13\)](#) She also stated that Heffner instructed her to coordinate a flight to Washington, D.C., for a meeting between Heffner and ETS. She stated that though ETS scheduled the flight, she was instructed to convey the details of the flight to ETS's executive search company, JRS.

When asked whether it was appropriate to assist Heffner in these private business and personal activities, the former executive secretary explained she was under the direction of Heffner during her normal working hours. She said she went home and "vented" to her husband about these additional duties, but her husband advised, "... when you're dealing with higher ups, maybe

those are the things that you're required to do." When asked why she would perform these tasks that were personal and not a part of her ODE job assignment, she replied, "Someone asks me to do something ... my superior, I do it."

Subsequently, when Heffner assumed the position of interim state superintendent, a new ODE executive assistant was assigned. During this transition, his former executive secretary contacted ETS and informed them of this change of personnel, and directed ETS to make all future contact with Heffner's new ODE executive assistant. [\(Exhibit 14\)](#)

On February 16 and 21, 2012, the new executive assistant to Heffner consented to an interview by the Office of the Ohio Inspector General. Employed at ODE since 2010, the new executive assistant explained that she reported directly to Heffner and her job duties included scheduling, reviewing the mail, handling phone calls, and constituent inquires.

When questioned about any involvement with ETS, the new executive assistant stated she did not deal directly with ETS as it related to her ODE job duties, however she did deal with ETS during her state work hours to assist Heffner's transition to his future employer. She stated most of her interaction with ETS started after Heffner assumed the position of interim superintendent and dealt mainly with Heffner's move from Ohio to San Antonio, Texas, and coordinating flights to different ETS sites. During the time period Heffner was engaged in employment negotiations with ETS, she was instructed by Heffner to perform tasks that were outside the scope of her duties as a state employee. She said she was instructed to coordinate and schedule a flight for Heffner to go to San Antonio to meet with ETS officials. One leg of the flight was "complicated" because Heffner was in travel status for ODE and she had to schedule his personal flight on the back end of the trip. Additionally, the new assistant reported Heffner had instructed her to reserve a hotel room and to coordinate a meeting with a San Antonio real estate agent. She stated, "anything to do with that trip I pretty much had it laid out before he traveled." When asked why she would perform these personal tasks for Heffner during business hours while working for the state, she replied, "I was taking instructions from my supervisor."

In addition, the new assistant was instructed to communicate and handle matters involving the local real estate agent for the sale of Heffner's residence in Westerville, and the purchase of a new home in San Antonio. She stated phone calls from the real estate agents were fairly frequent and Heffner made it very clear they were a priority. Heffner's executive assistant recalled on one particular day, Heffner brought in a brief case full of personal documents which were related to the potential purchase of a home in San Antonio, and for the sale of his home in Westerville. The new executive assistant explained Heffner instructed her to organize the documents and assist in getting the process "finalized" for the mortgage company. She described the documents as Heffner's personal records such as tax returns, bank statements, letters of financial debt, and anything you would need for a mortgage company. She stated that from the personal documents given to her by Heffner, as mortgage companies would contact her, she would provide whatever documentation they were seeking and would utilize whatever state equipment was necessary to send or transmit them. Occasionally, she stated, Heffner would inquire as to how the process of his home purchase was proceeding and would want to know about "timelines."

She stated the private and personal work she was instructed to do by Heffner was substantial and had nothing to do with her employment at ODE. In addition to dealing with the real estate agents, Heffner instructed the executive assistant to deal with contractors who were hired to repair items in his Westerville home in preparation of sale. When asked if she believed that she had an option to refuse to perform this work she replied, "... and keep my job? Probably not." She stated she was in "disbelief" that Heffner was instructing her to perform these personal tasks. She said, "My only option was to do what he needed and try to do it well so he, you know, so he would, so he would keep me."

Heffner's executive assistant was asked if she had ever spoke to anyone about the personal work she was directed to complete and she replied that she shared her concerns with former ODE Deputy Superintendent Marilyn Troyer.

On March 14, 2012, Troyer consented to be interviewed by the Office of the Ohio Inspector General at the office of her current employer. Troyer stated she was employed at ODE for 21 years and for approximately five years, supervised Heffner. However, during Heffner's

appointment as interim superintendent of public instruction, she reported to him. Troyer stated she was very familiar with both Heffner and his executive assistant and the personal work Heffner required his assistant to do during state government working hours. Troyer stated Heffner's executive assistant's work station was right outside her office for about 1½ years and this gave her the opportunity to witness the tasks Heffner was requesting of her. Troyer stated, when Heffner was planning on leaving ODE, there were a number of days when his assistant spent the entire day working on the sale of Heffner's home in Westerville and the proposed purchase of a home in Texas. Troyer stated she and Heffner's executive assistant would often talk about the inappropriateness of the tasks Heffner was instructing her to do. Troyer admitted that she neither presented this issue to Heffner nor to any member of the State Board of Education of Ohio. Troyer believed that Heffner's executive assistant only reported these issues to her because she was in a "precarious position" due to the transition of one administration to another. Troyer believed that Heffner's executive assistant had no choice but to carry out Heffner's instructions, regardless of how uncomfortable she was in performing them during hours she would customarily be working on business for the state. Troyer recalled seeing a substantial amount of paperwork Heffner provided to his executive assistant involving the sale of his home and the proposed purchase of a house in Texas.

On March 22, 2012, Kim Vogel, former Administrative Assistant III for ODE consented to be interviewed by the Office of the Ohio Inspector General. Vogel, who was employed at ODE from December 2010 until November 2011, stated Heffner never asked her to perform any tasks that were outside of her job description. However, Vogel witnessed Heffner instructing his executive assistant to perform tasks involving the sale of his Westerville home and the purchase of a house in San Antonio. Vogel overheard Heffner instructing his assistant and she was aware of the pressure Heffner's executive assistant was under to perform these tasks in order to keep her job. Vogel stated that the executive assistant complained about the inappropriateness of the work Heffner required, but believed, under the circumstances, the executive assistant felt she had no choice but to comply in order to keep her job.

In an interview conducted on April 25, 2012, by the Ohio Ethics Commission and the Office of the Ohio Inspector General, Heffner stated he had only "limited" contact with ETS. He said that

ETS talked about where Heffner would be located, but that Oswald, Heffner's intended supervisor at ETS, understood Heffner had a job to do and Heffner appreciated the hands-off approach of ETS. Heffner also stated that he never used ODE staff to assist in scheduling a meeting with ETS. However, the investigation by the Office of the Ohio Inspector General revealed that Heffner, during this time period exchanged numerous emails back and forth between he and Oswald on several issues in which ETS had a business interest. In addition, the investigation also indicated that representatives of ETS met with Heffner while Heffner was in attendance as an ODE representative at conferences held outside the state of Ohio. Heffner further downplayed the role his staff took in assisting real estate agents with information involving the planned purchase of a home in San Antonio. Heffner stated that his secretary might have taken "some calls" from people wanting information, and he would be provided a list of what was needed. Once he secured those documents, he would seek the assistance of his secretary to scan the documents and transmit them to whoever was requesting them. He stated there was "no time, no cost to speak of." Heffner further denied using any of his ODE staff involving the sale of his home in Westerville.

CONCLUSION OF ADDITIONAL ISSUES

The investigation by the Office of the Ohio Inspector General discovered numerous occasions in which Heffner encouraged and directed his private business associates to communicate with him via his state-of-Ohio issued cell phone and his state-of-Ohio email account. Heffner directed state of Ohio employees to work, while being paid by the state of Ohio, on business matters that were outside the interest of the ODE and purely for the private business interests of Heffner.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.

RECOMMENDATIONS

The Office of the Ohio Inspector General asks the State Board of Education of Ohio to consider whether administrative action is warranted and respond within 60 days detailing its decision.

[\(Click here for Exhibits 1-14 combined.\)](#)



STATE OF OHIO

OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Education

FILE ID #: 2011-139

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

**Jill Jones
KEEPER OF RECORDS**

**CERTIFIED
August 2, 2012**

MAILING ADDRESS

OFFICE OF THE INSPECTOR GENERAL
JAMES A. RHODES STATE OFFICE TOWER
30 EAST BROAD STREET – SUITE 2940
COLUMBUS, OH 43215-3414

TELEPHONE

(614) 644-9110

IN STATE TOLL- FREE

(800) 686-1525

FAX

(614) 644-9504

E-MAIL

OIG_WATCHDOG@OIG.STATE.OH.US

INTERNET

WATCHDOG.OHIO.GOV